CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:		Force	<u> </u>	Discourt.	U.S.
Abigail Shuster		Squad #15	201510015	V	Abuse		O.L.	☐ Injury
ncident Date(s)		Location of Incident:		P	Precinct:		Mo. SOL	EO SOL
Sunday, 11/22/2015 4:00 AM		Malcolm X Boulevard Street	at West131st		32 5/22/2017 5/22/2		5/22/2017	
Date/Time CV Reported		CV Reported At:	How CV Reported	l:	Date/Time Received at CCRB			RB
Tue, 11/24/2015 12:57 PM		CCRB	Call Processing System		Tue, 11/24/2015 12:57 PM			
Complainant/Victim	Type	Home Addre	ess					
Witness(es)		Home Addre	ess					
Subject Officer(s)	Shield	TaxID	Command					
1. Officers			Unknown					
2. POM Isabelo Adames	15260	948590	028 PCT					
3. POM Gobinjee Bania	28863	934315	028 PCT					
4. An officer			Unknown					
Officer(s)	Allegati	on			Inve	estiga	ator Recor	nmendation
A.POM Isabelo Adames	Discourt toward §	esy: PO Isabelo Adame:	s spoke discourteous	sly				
B. An officer	_	esy: An officer spoke di	iscourteously toward] § 87(2 (b)	2)			
C.POM Isabelo Adames	Abuse: PO Isabelo Adames frisked \$87(2)(b)							
D.POM Isabelo Adames	Abuse: PO Isabelo Adames searched the vehicle in which was an occupant.							
E.POM Isabelo Adames	Abuse: PO Isabelo Adames refused to provide his shield number to \$87(2)(6)							
F.POM Gobinjee Bania	Abuse: PO Gobinjee Bania refused to provide his shield number to \$87(2)(b)							
G. Officers	Abuse: Officers refused to provide their shield numbers to							
H.POM Isabelo Adames	Abuse: PO Isabelo Adames summonsed § 87(2)(b) for disorderly conduct.							

Case Summary

filed this complaint with the CCRB on November 24, 2016. Although two of the four subject officers were immediately identified, only a general description (and no police documentation) was available for the second pair of subject officers. Efforts to identify these officers, including by interviewing all officers from the 32nd Precinct who fit the description, extended the investigation time slightly past its 90-day mark.

On November 22, 2015, at approximately 4:00am, street and Malcolm X Boulevard in Manhattan by PO Isabelo Adames and PO Gobinjee Bania of the 28th Precinct. While street attempted to locate his documentation, PO Adames allegedly asked him, "Why are you taking so fucking long?"(Allegation A). Moments later, an officer allegedly told street to "Get out of the fucking car!"(Allegation B). Once outside of his vehicle, PO Adames allegedly asked street "Why are you doing so fucking much?"(within Allegation A), and an officer allegedly asked, "Why are you making shit so fucking complicated?"(within Allegation B).

PO Adames frisked \$57(2)(b) (Allegation C), and also searched the front areas of \$57(2)(b) s vehicle (Allegation D). Before parting ways, \$57(2)(b) asked PO Adames, PO Bania, and two unidentified officers who arrived during the incident to assist, for their shield numbers. Each officer allegedly told \$57(2)(b) that all of that information could be found on the summons, and none of them provided it to him verbally (Allegations E-G).

PO Adames summonsed for disorderly conduct (**Allegation H**). He also received a traffic summons for making an improper turn and a summons for failure to provide proof of insurance.

Mediation, Civil and Criminal Histories

- §87(2)(b) rejected mediation during his in-person statement on December 8, 2015, §87(2)(b)
- A FOIL request was filed on March 2, 2016, to determine whether any notices of claim were filed. The results will be added to the case file upon receipt.

§ 87(2)(b

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by \$87(2)(b) (BR 1).
- This is PO Bania's first CCRB complaint during his 11-year tenure with the NYPD.
- This is the second CCRB complaint filed against PO Adames during his 5-year tenure with the NYPD. The first involved one allegation, which was closed as complainant uncooperative. §87(2)(9)

Potential Issues

and stop. Contact was made with stop. Contact was made with stop.

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statement. § 87(2)(b) stated that § 87(2)(b) although present, was ill and asleep during the incident. He did not have her contact information, and the additional database searches that were conducted to locate her were unsuccessful.

Findings and Recommendations

Explanation of Subject Officer Identification

testified that two unidentified officers, both of whom he described as 5'10" tall, averagely built, dark-haired white males in uniform, arrived at the location during the vehicle stop in a marked SUV (BR 2).

PO Adames and PO Bania both testified that two officers from the 32nd Precinct stopped to provide backup for them during the vehicle stop. Neither PO Adames nor PO Bania, both of whom are assigned to the 28th Precinct, knew the officers who stopped and stated that they did not call these officers to the scene themselves. PO Adames and PO Bania each described the officers as uniformed males, one white and one Asian (BR 3, BR 4).

PO David Chu, PO Mohammad Malek, and PO Azad Mahmood, were the only three Asian males assigned to the 32nd Precinct who were on duty during the time of the incident. PO Chu, PO Malek, and PO Mahmood's partner (PO Michael Capobianco), were all interviewed at the CCRB. They each had memo book entries placing them and their partners at other locations during the time of the incident, and they each denied having stopped to provide backup for a vehicle stop. None of the officers were familiar with PO Bania or PO Adames and none recognized from his photograph (BR 11, BR 6-8).

Investigative Manager Edwin Pena contacted the 32nd Precinct ICO, Lt. Tanya Bennett, on February 16, 2016. She was unable to identify any marked SUVs that were in use by the 32nd Precinct on the incident date.

87(2)(g)

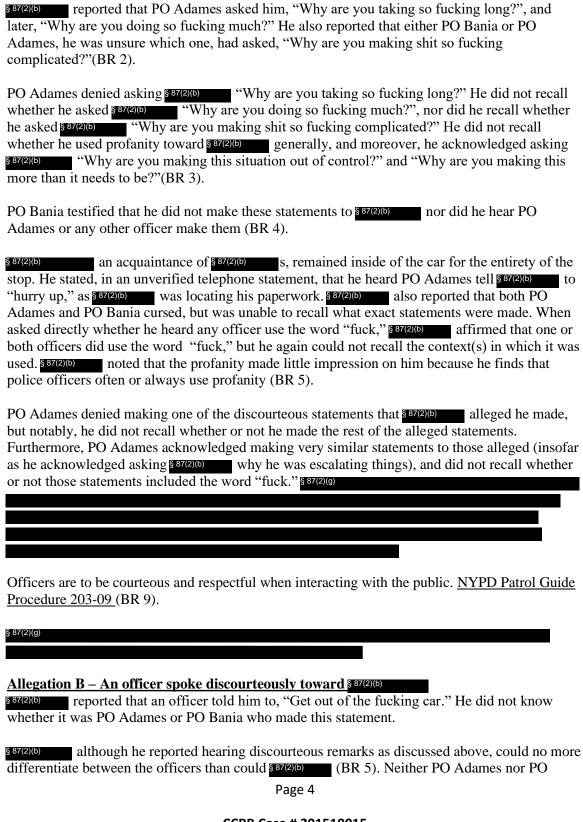
Allegations Not Pled

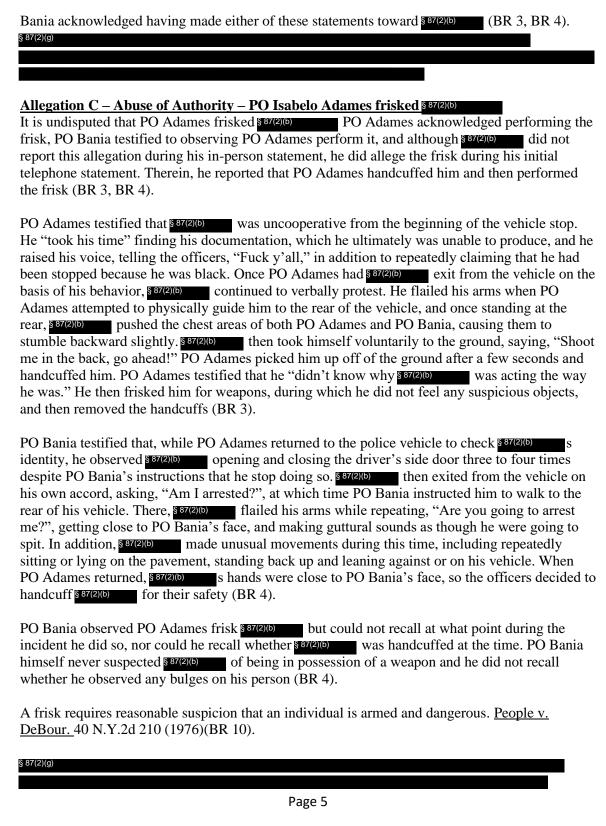
• Force – Physical Force:

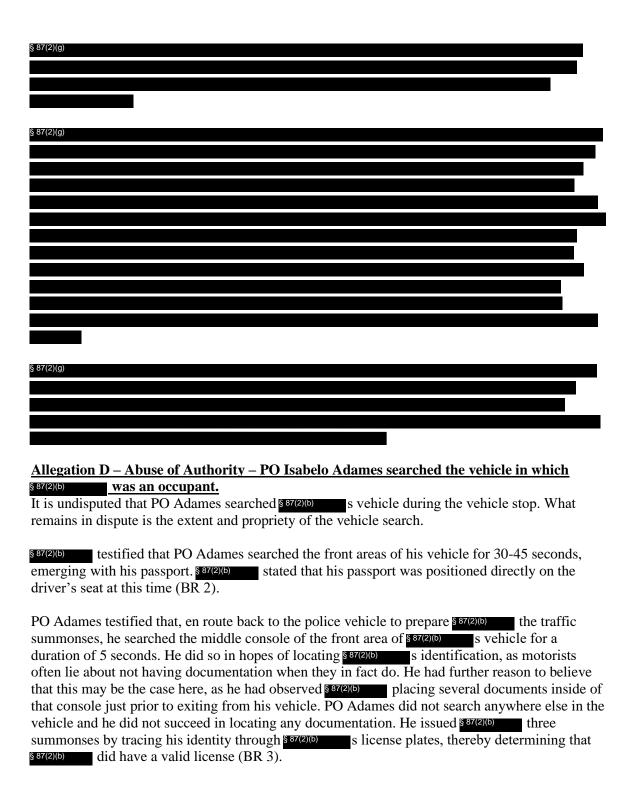
alleged that PO Bania pushed him against the vehicle in order to handcuff him, stating that handcuffing him took only seconds. He also alleged that, after \$87(2)(6) and lay down on the ground on his own accord and told the officers to arrest him if they wished, PO Bania instructed him to stand up and then pushed him against the car again. \$87(2)(6) reported no injuries from these moments of physical contact, and the officers acknowledged that \$87(2)(6) had to be handcuffed and physically restrained. \$87(2)(9)

Allegation A – Discourtesy – PO Isabelo Adames spoke discourteously toward §87(2)(b)

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PO Bania testified to observing PO Adames enter ser(2)(b) s vehicle through the driver's side door for a few seconds, but could not recall when this occurred or whether PO Adames emerged with anything from the vehicle (BR 4).
who remained in the back seat for the entire vehicle stop, reported in an unverified telephone statement that PO Adames opened the driver's side door and leaned his head and upper body inside of the vehicle. He then searched the driver's seat area and possibly other areas in the front, but was not paying close attention because \$87(2)(b) was ill at the time and he was tending to her. He estimated that PO Adames was inside of \$87(2)(b) so car for one or two minutes (BR 5).
A limited search of the vehicle to obtain the motorist's insurance and registration is permissible only in the event that less-intrusive alternatives for verifying ownership cannot be conducted. People v. Pryor. 26 Misc. 3d. 997 (2009)(BR 13).
§ 87(2)(g)
Allegation E – Abuse of Authority – PO Isabelo Adames refused to provide his shield number to § 87(2)(b)
alleged that, before parting ways, he told PO Adames that he wanted his shield number and that PO Adames informed him that it would be on the summons. [837(2)(5)] testified that the issuing officer's handwriting was difficult to read (BR 2). [837(2)(5)] did not report hearing [837(2)(5)] ask any officer for his shield number, stating that he had difficulty hearing the specific conversation that took place outside of the vehicle while he remained seated inside of it (BR 5).
PO Adames acknowledged that \$37(2)(b) asked him for his name and shield number and testified that he provided these pieces of information verbally. He also showed \$37(2)(b) where on the summons his name and tax registry identification number were located. PO Bania corroborated PO Adames's statement with regard to this allegation.
Officers are to state their rank, name, shield number, and command, or otherwise provide such information, to anyone who requests it. NYPD Patrol Guide Procedure 203-09 . (BR 09).
§ 87(2)(g)
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§ 87(2)(g)
Allegation F – Abuse of Authority – PO Gobinjee Bania refused to provide his shield
alleged that, before parting ways, he told PO Bania that he wanted his shield number and that PO Bania informed him that it would be on the summons. Upon reviewing his summonses, \$\sigma^{87(2)(0)}\$ noted that only one officer's information was listed. He never obtained PO Bania's shield number.
PO Bania testified that \$87(2)(b) requested his name and shield number and that PO Bania provided both pieces of information to him verbally. PO Adames testified to hearing PO Bania provide his name and shield number to \$87(2)(b) (BR 4, BR 3).
As discussed above, 887(2)(b) was unable to hear the conversation taking place between 887(2)(b) and the officers, and was therefore unable to address this specific allegation (BR 5).
§ 87(2)(g)
Allegation G – Officers refused to provide their shield numbers to alleged that at the conclusion of the vehicle stop, he asked the two backup officers individually for their shield numbers and that they each told him that such information would be included on the summonses. Upon reviewing his summonses, he found that not to be the case (BF 2).
§ 87(2)(g)
Allegation H – Abuse of Authority – PO Isabelo Adames summonsed sa(2)(b) for disorderly conduct.
PO Adames issued \$87(2)(b) a moving violation summons for making an improper left turn, a summons for failing to provide proof insurance, as well as a criminal court summons for disorderly conduct – violent behavior. The narrative of the summons indicates that \$87(2)(b) refused to give identification when asked several times; raised his voice causing public alarm; flailed his arms and causing a tumultuous situation; was being very non-compliant (BR 12).
As discussed in Allegation C, PO Adames testified that §87(2)(b) refused to provide his documentation, pushed PO Adames and PO Bania in the chest once outside of the vehicle, yelled
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profanity, and threw himself on the ground. Regarding the disorderly conduct summons, PO Adames pointed to these behaviors and stated that it was issued to \$87(2)(b) on the basis of his "belligerent actions," namely, those listed above. He denied observing any crowd of civilians gathering during the stop, nor did he testify to seeing any individuals watching the incident from afar. Although \$87(2)(b) and \$87(2)(b) were inside of the vehicle during the incident, PO Adames reported that one or both of them attempted to get § 37(2)(b) to relax; to this end, PO Adames collected their names and recorded them on the fly sheet of his memo book in the event that he would later require witness statements. PO Bania similarly reported that the passengers told \$87(2)(b) to calm down. He did not report the presence of any other civilians on scene. He described \$87(2)(b) as "disoriented," and stated that he remained upset about the stop throughout the 25-35 minute incident. A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annovance, or alarm, or recklessly creating the risk thereof; he or she engages in fighting or in violent, tumultuous, or threatening behavior. New York State Penal Law 240.20 (BR 15). For an action to constitute disorderly conduct, the defendant has to intend to create a threat to public safety by their conduct. People v. Baker 20 N.Y.3d 354 (2013)(BR 14). In deciding whether an act carries the public ramifications necessary to be considered "disorderly conduct," the nature and number of people attracted by the alleged commotion must be taken into account. People v. Dennis. 13. Misc. 3d 41 (2006)(BR 16).

Squad: 15

Investigator:

Signature

Print

Date

Squad Leader:

Title/Signature

Print

Date

Reviewer:

Title/Signature

Print

Date

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